



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201106023

NOV 15 2010

Uniform Issue List: 408.03-00

SE: T: EP: RA: T4

Legend:

Taxpayer A =

IRA X =

IRA Y =

Individual B =

Company C =

Amount A =

Amount D =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Dear :

This is in response to a letter dated submitted on your behalf by  
your authorized representative, supplemented by a letter dated  
submitted by your authorized representative, and your e-mail dated ,

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in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 61, represents that she received a distribution from IRA X totaling Amount A, intending to roll over Amount D, a portion of Amount A. She asserts that her failure to accomplish a rollover of Amount D from IRA X within the 60-day period prescribed by section 408(d)(3) was due to her responsibilities as a caregiver for her husband, Individual B, and her own serious medical condition during the 60-day rollover period, which together impaired her ability to handle her financial affairs.

On Date 1, Taxpayer A contacted Company C and authorized a complete distribution from IRA X of Amount A. Taxpayer A intended to roll over Amount D to another IRA. The following day, on Date 2, Taxpayer A's husband, Individual B, had surgery and Taxpayer A began a protracted period as Individual B's primary caregiver. Three days after the surgery, on Date 3, Taxpayer A received a check from Company C for Amount A. Taxpayer A deposited the check in her non-IRA bank account, planning to complete the rollover within the 60-day period. While still functioning as Individual B's primary caregiver, Taxpayer A began to suffer from serious medical symptoms of her own. On Date 4, close to the end of the 60-day period, Taxpayer A was diagnosed with a life-threatening medical condition for which she underwent surgery on Date 5, shortly after the end of the 60-day period. On Date 6, nine days after her surgery, Taxpayer A deposited Amount D into IRA Y.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement with respect to Amount D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount D was caused by her responsibilities as caregiver to her husband, Individual B, and her own serious medical condition, which was diagnosed during the 60-day rollover period. Together these circumstances impaired her ability to handle her financial affairs.

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Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the rollover of Amount D into IRA Y. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the deposit of Amount D into IRA Y will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact  
(ID # ) at ( ) Please address all correspondence to  
SE:T:EP:RA:T4.

Sincerely yours,

*Ada Perry*

*for*

, Manager  
Employee Plans Technical Group 4

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose